

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 26, 2009

D051883 In re the Marriage of Stauffer

The order is affirmed. Debra shall recover hers costs on appeal. Nares, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D052254 Dey v. Continental Central Credit et al.

The opinion filed December 29, 2008, is ordered certified for publication.
The attorneys of record are: Law Offices of Deborah L. Raymond and Deborah L. Raymond for Plaintiff and Appellant. Michael E. Williams for Defendants and Respondents.

D052059 Hyder v. Hyder

Judgment affirmed. Appellant is to pay respondent's costs on appeal. Haller, J.; We Concur: Acting P.J., McIntyre, J.

D053125 In re A.R., a Juvenile

The judgment is reversed and the case transferred for a new jurisdictional and dispositional hearing. Because more than 90 days have elapsed during the pendency of this appeal, on remand the juvenile court need not grant Robert an initial 90-day SCRA stay. Aaron, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D052179 Greco & Traficante v. Fidelity & Guaranty Insurance Company

The judgment is affirmed. Costs on appeal are awarded to Fidelity. Huffman, Acting P.J.; We Concur: McDonald, J., Irion, J.

D047208 Evans et al. v. Haubert

The motion to dismiss the appeal is granted. Respondents are awarded sanctions of \$9,460, in addition to their costs on appeal. Further, Haubert is to pay sanctions of \$6,000 to the clerk of this court. All sanctions are to be paid no later than 30 days after the remittitur has issued. Upon return of the remittitur, the Clerk of the Court of Appeal is to forward a copy of this opinion to the State Bar of California, pursuant to Business and Professions Code section 6086.7, subdivision (a)(3).²

² The relevant portions of section 6086.7 of the Business and Professions Code provide: "(a) A court shall notify the State Bar of any of the following:...(3) The imposition of any judicial sanctions against an attorney, except sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000)." Aaron, J.;

We Concur: Huffman, Acting P.J., Irion, J.

D051747 Lair et al. v Vinci et al.

The order is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Haller, J.

D051757 People v. Ward

The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Nares, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 26, 2009 (Continued)

D053237 People v. Langosh

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., Irion, J.

D053380 In re Spencer L., a Juvenile

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., O'Rourke, J.

D051457 People v. Gonzalez

Judgment affirmed. Benke, J.; We Concur: McConnell, P.J., Huffman, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 27, 2009

D052286 People v. Wilcox

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D053894 Arlene R. v. Superior Court of the County of San Diego/San Diego County
Health and Human Services Agency**

The petition is denied. O'Rourke, J.; We Concur: Haller, Acting P.J., Irion, J.

D050432 People v. Anderson

It is ordered that the opinion filed herein on December 31, 2008, is modified. No change in judgment. The petition for rehearing is denied. The opinion was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered.

D053770 In re Fuentes on Habeas Corpus

The petition is denied.

D054313 Madero et al. v. Superior Court of San Diego County/Kirk

The petition for writ of mandate and request for stay have been read and considered by Justices McIntyre, O'Rourke and Irion. The petition is denied.

D053557 In re Barlow on Habeas Corpus

The petition is denied.

D052591 Qassimyar v. Children's Hospital San Diego et al.

The order is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Aaron, J.

D053422 In re Andrea U., a Juvenile

The orders are affirmed. Benke, Acting P.J.; We Concur: Haller, J., Aaron, J.

D053572

In re Sheley on Habeas Corpus

The petition is denied.

D052565 People v. McAdams

Affirmed. Irion, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D052872 Klinger v. Stu Segall Productions Inc., et al.

Upon written stipulation filed by the parties to the appeal, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).) Each party to bear own costs on appeal.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 28, 2009

D054237 Jennifer N. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Alfred W. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

D054093 Cynthia F. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

D053045 People v. Aphaivong

The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., McDonald, J.

D053744 In re Donnie P., a Juvenile

The order is affirmed. McConnell, P.J.; We Concur: O'Rourke, J., Irion, J.

D052493 In re Joshua J., a Juvenile

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Aaron, J.

D053611 In re Laura C., a Juvenile

The judgment is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., Aaron, J.

D052178 Gabriel v. Canyon Haven Homeowners Association

The judgment of the trial court is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., Aaron, J.

D052386 Pardo v. The Regents of the University of California

The judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Nares, J.

D054476 Dobron et al. v. Superior Court of San Diego County/City National Bank

The petition is denied.

D054481 Mata v. The Superior Court of San Diego County/People

The petition is denied.

D052189 People v. Veloz II

The judgment is affirmed. McConnell, P.J.; I Concur: McIntyre, J.; I Dissent: Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 29, 2009

D051954 People v. Belmont

The judgment is modified to strike rather than stay the two prison prior enhancements. In all other respects, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting such modification and to forward a certified copy to the Department of Corrections and Rehabilitation. Huffman, J.;
We Concur: Benke, Acting P.J., Aaron, J.

D053262 People v. Durham

The judgment is affirmed. Irion, J.; We Concur: Haller, Acting P.J., Aaron, J.

D054259 In re Flournoy on Habeas Corpus

The petition is denied.

D052607 People v. Vaughn

The judgment is affirmed. Haller, J.; We Concur: Nares, Acting P.J., McDonald, J.

D053549 In re Austin on Habeas Corpus

The petition is denied. The request for appointment of counsel is denied.

D054271 In re DeSantiago on Habeas Corpus

The petition is denied.

D053921 Noonan v. Workers' Compensation Appeals Board et al.

The petition is denied.

D054256 In re Williams on Habeas Corpus

The petition is denied.

D054186 In re Guadarrama

The petition is denied.

D052181 State Building and Construction Trades Council of California et al. v. City of Chula Vista

In the collegial context of an appellate tribunal, in which the concurrence of more than one justice is required for decision of a cause, a thorough and meaningful consideration of the views of all members of a panel with respect to important and complex issues raised in a particular case may require additional time in which to render a decision. (See Cal. Rules of Court, rule 8.256(e)(1); *Mardikian v. Commission on Judicial Performance* (1985) 40 Cal.3d 473, 484, fn. 11.) This is such a case. Accordingly, the order of November 14, 2008, submitting the case is vacated to allow the court additional time to decide the issues. No further briefing is requested of the parties. The matter is resubmitted as of the date this order is filed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 29, 2009 (Continued)

D053212 People v. Reynoso

The judgment is affirmed. Benke, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D053508 Nixon v. Century Appraisal et al.

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately.

D053629 In re Peyer on Habeas Corpus

The petition is denied.

D054184 In re Larson on Habeas Corpus

The petition is denied.

D053321 Estate of Hazewinkel

The petition for writ of supersedeas, request for stay and response have been read and considered by Justices McIntyre, O'Rourke and Irion. The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 30, 2009

D051402 People v. Tabb

The convictions on counts 2 and 3 are reversed. In all other respects the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment in accordance with this disposition and to send a copy of the amended abstract to the Department of Corrections and Rehabilitation. CERTIFIED FOR PUBLICATION. O'Rourke, J.; We Concur: Haller, Acting P.J., McIntyre, J.

D050479 Major et al. v. Western Home Insurance Company

Order modifying opinion and denying rehearing. No change in judgment.

D052237 Riverwatch et al. v. Olivenhain Municipal Water District/Gregory Canyon LTD.

The opinion filed on January 9, 2009, is modified. There is no change in judgment. The opinion is CERTIFIED FOR PUBLICATION.

D054270 In re Walker on Habeas Corpus

The petition is denied.

D054284 In re Robinson on Habeas Corpus

The petition for a writ of habeas corpus has been read and considered by Justices McIntyre, O'Rourke and Irion. We take judicial notice of the direct appeal D036698 and the prior petition D042264.

A jury convicted Regal Robinson of forcible rape and other crimes in 2000. The court sentenced him to a term of 186 years to life in prison. We affirmed the conviction on August 1, 2002. We denied Robinson's petition for a writ of habeas corpus on August 12, 2003.

Robinson claims error under *People v. Wheeler* (1978) 22 Cal.3d 258 and *Batson v. Kentucky* (1986) 476 U.S. 79. The petition is repetitive because this claim was reviewed and rejected on appeal. (*In re Clark* (1993) 5 Cal.4th 750, 765-768.) Robinson also claims his sentence is illegal under "federal rules."

Federal sentencing guidelines do not apply to sentences imposed in California state courts. Any claim as to the sentence could have been raised on appeal. (*Ibid.*) Robinson has not shown he is entitled to relief on a petition for habeas corpus. The petition is denied.

D054058 Crystal G. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. McIntyre, J.; We Concur: Benke, Acting P.J., McDonald, J.

D054463 Mahdavi v. Superior Court of San Diego County/People

The petition for writ of mandate has been read and considered by Justices Nares, McIntyre and O'Rourke. This petition arises out of a misdemeanor proceeding, case No. M030443. Petitioner should have requested relief from the appellate division of superior court, not this court. "The appellate division of the superior court has original jurisdiction in proceedings for extraordinary relief in the nature of mandamus directed to the superior court in causes subject to its appellate jurisdiction." (Cal. Const., art. VI, § 10.) Appeal from a misdemeanor lies with the appellate division. (Pen. Code, §1466.) The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
January 30, 2009 (Continued)

D054385 Schwan's Consumer Brands North America v. Superior Court of San Diego County/Wastier et al.

The petition is denied.

D053318 People v. Fogelberg

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

D054505 Mahdavi v. Superior Court of San Diego County/People

The petition is denied.